

1
2
3
4
5 UNITED STATES DISTRICT COURT
6 DISTRICT OF NEVADA
7

8 IN RE:

9 DMCA SECTION 512(H)
10 SUBPOENA TO BORJAN SOLUTIONS, S.L
11
12

Case No. 2:16-cv-03006-JAD-GWF

ORDER

13 This matter is before the Court on Movant AMA Multimedia, LLC's Request for Issuance of
14 Subpoena (ECF No. 1), filed on December 23, 2016.

15 **BACKGROUND**

16 Movant requests an order issuing a subpoena to Borjan Solutions, S.L., an internet service
17 provider, to identify alleged infringers pursuant to the Digital Millennium Copyright Act
18 ("DMCA"), 17 U.S.C. § 512(h). The alleged infringers posted videos on systems operated by
19 Borjan Solutions in violation of copyrights held by Movant. Movant represents that its predecessor
20 in interest, SSC Group, LLC, entered into a settlement agreement with Borjan Solutions in which
21 Borjan Solutions agreed to install a removal form on its website. On September 12, 15, and 16,
22 2016, Movant submitted links through the removal form located on Borjan Solutions's website.

23 **DISCUSSION**

24 The DMCA provides a statutory scheme for copyright holders to notify internet service
25 providers of the existence of allegedly copyrighted material on their servers. 17 U.S.C. § 512(c)(3).
26 A "safe harbor" is provided to service providers who remove or disable access to allegedly
27 infringing material following receipt of a DMCA notice. 17 U.S.C. § 512(c)(1). §512(h) of the
28 DMCA provides that "a copyright owner or person authorized to act on the owner's behalf may

1 request the clerk of any United States district court to issue a subpoena to a service provider for
2 identification of an alleged infringer.” The request may be made by filing “(A) a copy of a
3 notification described in subsection (c) (3)(A); (B) a proposed subpoena; and (c) a sworn declaration
4 to the effect that the purpose for which the subpoena is sought to obtain the identity of an alleged
5 infringer and that such information will only be used for protecting the rights under this title.”

6 Movant filed with the court, as required by § 512(h)(2), notifications that it provided to
7 Borjan Solutions through the removal form installed on its website. *See* ECF No. 1, pgs 30-38.
8 Movant also attached a declaration of Adam Silverman, a managing member of AMA Multimedia
9 (“AMA”), stating that the purpose of the subpoena is to identify alleged infringers and such
10 information will only be used for the purposes of protecting AMA’s rights under 17 U.S.C. § 100.
11 Movant, however, failed to attach a proposed subpoena as required by §512(h)(2). The Court,
12 therefore, denies Movant’s motion without prejudice. Accordingly,

13 **IT IS HEREBY ORDERED** that Movant AMA Multimedia, LLC’s Request for Issuance
14 of Subpoena (ECF No. 1) is **denied** without prejudice.

15 DATED this 27th day of September, 2017.

16
17 
18 GEORGE FOLEY, JR.
19 United States Magistrate Judge
20
21
22
23
24
25
26
27
28